

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DIOMED, INC.,

Plaintiff,

v.

NEW STAR LASERS, INC.
d/b/a COOLTOUCH INC.

Defendant.

Civil Action No. 04-12157 RGS

PLAINTIFF'S REPLY TO DEFENDANT'S COUNTERCLAIMS

Plaintiff Diomed, Inc. ("Diomed"), by its attorneys, answers the Counterclaims for Declaratory Judgment of Defendant New Star Lasers, Inc. d/b/a CoolTouch, Inc., ("New Star Lasers") as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted, inasmuch as Diomed is the owner of all right, title and interest in the '777 patent that formerly belonged to one inventor thereof, Robert J. Min, and Diomed also has an exclusive license to the '777 patent, including the right to sue for infringement of the '777 patent (and all other substantial rights in the '777 patent), from the entity to which the remaining inventors thereof conveyed such rights.

5. Admitted.

Reply to New Star Lasers' First Claim for Relief

6. Diomed repeats and incorporates by reference the responses in paragraphs 1 through 5 above.

7. Denied. Diomed admits only that New Star Lasers purports to dispute Diomed's allegations of infringement; however, Diomed denies the remaining allegations of Counterclaim paragraph 7.

8. Denied.

9. Admitted.

10. The first sentence of paragraph 10 states a request to which no response is required; if, however, a response is required the statement is denied inasmuch as such declaration is not warranted. Diomed denies the remainder of paragraph 10.

Reply to New Star Lasers' Second Claim for Relief

11. Diomed repeats and incorporates by reference the responses in paragraphs 1 through 10 above.

12. Denied.

13. Admitted.

14. Admitted.

15. The first sentence of paragraph 15 states a request to which no response is required; if, however, a response is required the statement is denied inasmuch as such declaration is not warranted. Diomed denies the remainder of paragraph 15.

DIOMED, INC.,

By its attorneys,

Dated: December 27, 2004

/s/ Michael A. Albert
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